

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANH BI LEE, a/k/a AHN BI LE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C06-1666-JCC

ORDER

This matter comes before the Court on Petitioner's motion for a Certificate of Appealability ("COA") of the April 29, 2008 Order adopting Magistrate Judge Benton's Report and Recommendation and denying Petitioner's petition for a writ of habeas corpus. (Dkt. No. 34.) Having considered Petitioner's motion¹ and the record in this case, the Court hereby GRANTS the motion as follows.


Under the Antiterrorism and Effective Death Penalty Act, an unsuccessful habeas petitioner must first obtain a COA before he may appeal a district court's denial of habeas relief to the Court of Appeals. 28 U.S.C. § 2253(c). To obtain a COA, the petitioner must make a "substantial showing of the denial of a constitutional right." *Id.* § 2253(c)(2). This standard requires that the petitioner demonstrate that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been

¹ The Government did not file a response.

1 resolved in a different manner *or* that the issues presented were adequate to deserve encouragement to
2 proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (emphasis added, quotation marks
3 omitted).

4 While the Court concluded that, on this record, Petitioner failed to meet the standard set forth in
5 *Strickland v. Washington*, 466 U.S. 668 (1984), for claims of ineffective assistance of counsel, the
6 question that Petitioner raises, regarding the Sixth Amendment and the use of translators when defense
7 counsel communicates with clients who are not native English speakers, is important and deserves
8 encouragement to proceed further. To this end, the Court GRANTS Petitioner’s Motion on the issue of
9 whether the *Strickland* test has been satisfied on the record here.

10 SO ORDERED this 10th day of June, 2008.

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14 John C. Coughenour
15 United States District Judge
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